

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:17-cr-159-MOC-WCM-1

UNITED STATES OF AMERICA,)
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)
)
Vs.)
)
THANG LIAN MANG,)
)
)
Defendant.)

THIS MATTER is before the Court on defendant's "Motion for Clarifying Order Instructing the BOP to Give Defendant Credit for Time Served." (Doc. No. 30). In his motion, defendant states that the Bureau of Prisons ("BOP") has failed to give him credit for time served. Specifically, he seeks a "clarifying order" from this Court instructing the BOP to credit time defendant served in federal pre-trial detention and in state detention awaiting a state sentence.

Calculation of credit for time spent in prior custody is governed by 18 U.S.C. § 3585(b). In United States v. Wilson, 503 U.S. 329 (1992), the Supreme Court held that the Attorney General (through the BOP) is responsible in the first instance for computing credit under § 3585(b). Id. at 334–35. The Wilson Court made clear that "[Section] 3585(b) does not authorize a district court to compute the [presentence detention] credit at sentencing." Id. at 334. While the court may include an instruction in its order that a defendant be given credit for any time served, only the Attorney General, acting through the Bureau of Prisons, may compute sentencing credit. Id. at 334–35.

If a defendant is dissatisfied with the decision rendered by the BOP under Section 3585(b),

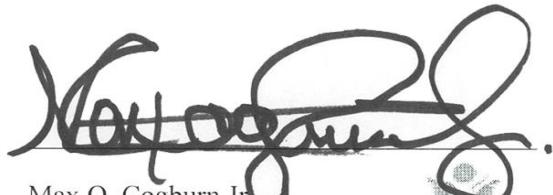
he must first exhaust his administrative remedies. Once administrative remedies are exhausted, see 28 C.F.R. §§ 542.10–542.16, a dissatisfied defendant may then seek judicial review of any jail-time credit determination, Wilson, 503 U.S. at 335, by filing a habeas petition under 28 U.S.C. § 2241 **in the district of confinement**. Thomas v. Whalen, 962 F.2d 358 (4th Cir. 1992). Thus, when defendant has exhausted his administrative remedies, he should seek relief by filing a Section 2241 petition in his district of confinement.

Having considered defendant's motion and reviewed the pleadings, the Court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED that defendant's Motion for Credit for Time Served (#30) is **DENIED** without prejudice.

Signed: September 11, 2020



Max O. Cogburn Jr.
United States District Judge